

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

**TOSHIBA INTERNATIONAL
CORPORATION,**

PLAINTIFF,

V.

SUDHAKAR KALAGA, an individual, VIJAYAGOWRI “JAYA” KALAGA, an individual, KIT CONSTRUCTION SERVICES, INC., KIT PROFESSIONALS, INC., SKBP VENTURES, LLC, SVSRK ENTERPRISES, LLC, RUDOLPH CULP, as independent administrator of the ESTATE OF PABLO D’AGOSTINO, PD RENTALS, LLC, JANUARY 22 1992, LLC, VINOD VEMPARALA, an individual, V2V SOLUTIONS, LLC, CHETAN VYAS, an individual, ABRAHAM JOSEPH, an individual, and ONEPOINT, INC.,

DEFENDANTS.

No. 4:19-cv-04274

JURY TRIAL DEMANDED

PLAINTIFF'S RULE 26(a)(2) DISCLOSURE OF EXPERT WITNESSES

Pursuant to Rule 26(a)(2) of the Federal Rules of Civil Procedure and the Court’s Scheduling Order (ECF No. 65), Plaintiff Toshiba International Corporation (“Plaintiff” or “TIC”) designates the following individuals as testifying experts in this matter, as defined under Rules 702, 703, and/or 705 of the Federal Rules of

Evidence. Plaintiff reserves the right to call at trial, the preliminary injunction hearing, or any other proceeding in this matter, either by subpoena or deposition, all persons listed within this Disclosure of Expert Witnesses, or within Plaintiff's or Defendants' Initial Disclosures, as well as any supplements and amendments. In addition, Plaintiff reserves the right to use all or a portion of such expert testimony for factual purposes or other use at time of trial. Without attempting to delineate all of the facts known by the expert, and without attempting to provide anything more than an outline of the testimony, Plaintiff files this Disclosure of Expert Witnesses and designates the following individuals as testifying expert witnesses in this matter.

I. PLAINTIFF'S TESTIFYING EXPERTS

1. Richard A. Pollack
Berkowitz Pollack Brant Advisors + CPAs
200 S. Biscayne Boulevard, 7th Floor
Miami, FL 33131

Mr. Pollack will be TIC's damages expert. His expert testimony will include the following subjects: (1) the calculation of TIC's loss and damages, (2) the calculation of the profit received by the Defendants, (3) the calculation of the profit margins on specific projects such as the projects identified in the Amended Complaint, (4) asset tracing and the flow of funds between Defendants, and (5) the matters identified in the Declaration of Richard Pollack filed in connection with the Motion for Preliminary Injunction (ECF No. 126), including the flow of funds and dissipation of cash and assets by the Kalaga Defendants. He will provide testimony on the

financial aspects of the case, including his analysis of the financial records received from banks and other financial institutions as well as from the Defendants. Since discovery is ongoing, the subject matters of Mr. Pollack's testimony may expand or be modified as new issues are identified and new evidence is found. His qualifications and experience are detailed in the Curriculum Vitae attached to this disclosure.

2. Ben D. Nolan III, P.E., PSP
Berkeley Research Group, LLC
220 West Garden Street, Suite 505
Pensacola, FL 32502

Anamaria I. Popescu, PhD, P.E., PMP, PSP
Berkeley Research Group, LLC
8400 East Crescent Parkway
Greenwood Village, CO 80111

James French
Berkeley Research Group, LLC
400 Renaissance Center, 26th Floor
Detroit, MI 48243

Mr. Nolan, Dr. Popescu, and Mr. French will provide expert testimony concerning the following subjects: (1) whether certain construction projects managed by Defendants KIT Construction Services, Inc., KIT Professionals, Inc., and OnePoint, Inc. for Plaintiff TIC were either unnecessary, over-engineered, or never completed, (2) what value and services KIT Construction Services, Inc., KIT Professionals, Inc., and OnePoint, Inc. provided TIC on TIC construction projects, and (3) whether the profit margins KIT Construction Services, Inc., KIT Professionals, Inc., and

OnePoint, Inc. received on these projects were commensurate with the value and services they provided. They will also provide background testimony based on their experience about the technical issues in construction. Since discovery is ongoing, the subject matters of their testimony may expand or be modified as new issues are identified and new evidence is found. Their qualifications and experience are detailed in the Curricula Vitae attached to this disclosure.

3. Kyle D. Workman, LEED A.P.
Workman Construction Advisors, LLC
4181 N FM 39
Jewett, TX 75846

James French
Berkeley Research Group, LLC
400 Renaissance Center, 26th Floor
Detroit, MI 48243

Mr. Workman and Mr. French will provide expert testimony regarding the prevailing rates of labor and materials in the Houston, Texas area for the construction projects managed by Defendants KIT Construction Services, Inc., KIT Professionals, Inc., and OnePoint, Inc. for Plaintiff TIC and provide opinions about the industry-standard reasonable range of profit margin on those projects, along with any reasonable costs for work performed. Since discovery is ongoing, the subject matters of their testimony may expand or be modified as new issues are identified and new evidence is found. Their qualifications and experience are detailed in the Curricula Vitae attached to this disclosure.

II. OTHER EXPERTS

Plaintiff also designates any and all expert witnesses that have been designated by other parties. Plaintiff reserves the right to elicit any expert opinion or lay opinion testimony from any of the individuals previously identified by any other party as persons with knowledge of facts relevant to this proceeding, which testimony would be truthful, would be of benefit to the court and/or the jury determining the factual issues in this lawsuit, and which would not violate any existing Court order, the Federal Rules of Civil Procedure, or the Federal Rules of Evidence.

Plaintiff also reserves the right to call as an expert witness any of the expert witnesses designated by any other party in this case. Plaintiff further reserves the right to supplement this designation with additional designations of experts within the time limits imposed by the Court or any alternations of same by subsequent Court order or agreement of the parties, or pursuant to the Federal Rules of Civil Procedure and/or the Federal Rules of Evidence.

III. RIGHT TO DESIGNATE/REDESIGNATE

Plaintiff reserves the right to withdraw the designation of any expert and to aver that any such previously designated expert will not be called as a witness at trial, and to re-designate same as a consulting expert, who cannot be called by opposing counsel.

Dated: April 30, 2020

Respectfully submitted,

WHITE & CASE LLP

By: /s/ Justin Synhorst

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*Counsel to Toshiba International
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CERTIFICATE OF SERVICE

I hereby certify that on April 30, 2020, I caused to be electronically filed Plaintiff's Rule 26(a)(2) Disclosure of Expert Witnesses with the Clerk of the Court using the CM/ECF system, which will send notifications of filings to all counsel of record.

Respectfully submitted,

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